



Amendment No. 1
To
Contract No. NA190000126
For
Magnesium Hydroxide Slurry and Equipment
Between
Premier Magnesia, LLC
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This Unilateral Extension Option will be April 30, 2021 through April 29, 2022. Two options will remain
- 2.0 The City hereby exercises a four-and-eighty-nine hundredths percent (4.89%) price increase on the subject contract. The price increase is displayed below and will take effect on April 30, 2021.

Item	Description	Unit	Old Price	Modifier	New Price
11	Magnesium Hydroxide Slurry cost per dry tons of active product for Walnut WWTP	Dry Tons	\$715.00	1.0489	\$750.00
12	Magnesium Hydroxide Slurry cost per dry tons of active product for SAR WWTP	Dry Tons	\$715.00	1.0489	\$750.00
13	Magnesium Hydroxide Slurry cost per dry tons of active product for Dessau WWTP	Dry Tons	\$715.00	1.0489	\$750.00
14	Magnesium Hydroxide Slurry cost per dry tons of active product for Lost Creek WWTP	Dry Tons	\$715.00	1.0489	\$750.00
15	Magnesium Hydroxide Slurry cost per dry tons of active product for Wild Horse WWTP	Dry Tons	\$715.00	1.0489	\$750.00

- 3.0 The total contract amount is increased by \$7,100,000.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 04/30/2019 – 04/29/2021	\$14,200,000.00	\$14,200,000.00
Amendment No. 1: Option 1 – Unilateral Extension 04/30/2021 – 04/29/2022 Price increase of 4.89%	\$7,100,000.00	\$21,300,000.00

- 4.0 MBE/WBE goals do not apply to this contract.
- 5.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 6.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: Matthew Duree
Digitally signed by Matthew Duree
Date: 2021.04.12 12:00:19 -05'00'

Matthew Duree
Procurement Manager

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701



City of Austin

Purchasing Office

P.O. Box 1088, Austin, TX 78767

April 30, 2019

Premier Magnesia LLC
Mary Evans
South Central Regional Account Manager
1725 Drummers Lane, Suite 120
Wayne, PA 19087

Dear Mary:

The Austin City Council approved the execution of a contract with your company for magnesium hydroxide slurry and equipment in accordance with the referenced solicitation.

Responsible Department:	Austin Water
Department Contact Person:	Lydia Rodriguez-Torres
Department Contact Email Address:	Lydia.torres@austintexas.gov
Department Contact Telephone:	512-972-0329
Project Name:	Magnesium Hydroxide Slurry and Equipment
Contractor Name:	Premier Magnesia LLC
Contract Number:	MA 2200 NA190000126
Contract Period:	4/30/2019 – 4/29/2021
Dollar Amount	\$14,200,000
Extension Options:	Three 12-month options at \$7,100,000/option
Requisition Number:	RQM 2200 18083100738
Solicitation Type & Number:	IFB 2200 SLW1001REBID
Agenda Item Number:	18
Council Approval Date:	4/25/2019

Thank you for your interest in doing business with the City of Austin. If you have any questions regarding this contract, please contact the person referenced under Department Contact Person.

Sincerely,

Sandy Wirtanen
Procurement Specialist IV
City of Austin
Purchasing Office

**CONTRACT BETWEEN THE CITY OF AUSTIN (“City”)
AND
PREMIER MAGNESIA LLC (“Contractor”)
FOR
MAGNESIUM HYDROXIDE SLURRY AND EQUIPMENT
MA 2200 NA190000126**

The City accepts the Contractor’s Offer (as referenced in Section 1.1.3 below) for the above requirement and enters into the following Contract.

This Contract is between Premier Magnesia LLC having offices at Wayne, PA 19087 and the City, a home-rule municipality incorporated by the State of Texas and is effective as of the date executed by the City (“Effective Date”).

Capitalized terms used but not defined herein have the meanings given them in Solicitation Number IFB 2200 SLW1001REBID.

1.1 This Contract is composed of the following documents:

- 1.1.1 This Contract
- 1.1.2 The City’s Solicitation, IFB, 2200 SLW1001REBID including all documents incorporated by reference
- 1.1.3 Premier Magnesia LLC’s Offer, dated October 29, 2018, including subsequent clarifications

1.2 Order of Precedence. Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order:

- 1.2.1 This Contract
- 1.2.2 The City’s Solicitation as referenced in Section 1.1.2, including all documents incorporated by reference
- 1.2.3 The Contractor’s Offer as referenced in Section 1.1.3, including subsequent clarifications.

1.3 Term of Contract. The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of 24 months. The Contract may be extended beyond the initial term for up to three additional 12-month periods at the City’s sole option.

- 1.3.1 If the City exercises any extension option, all terms, conditions, and provisions of the Contract shall remain in effect for that extension period, subject only to any economic price adjustment otherwise allowed under the Contract.
- 1.3.2 Upon expiration of the initial term or any period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary for the City to re-solicit and/or complete the deliverables due under the Contract (not to exceed 120 calendar days unless mutually agreed to in writing).
- 1.3.3 This is a 24-month Contract. Prices are firm for the first twelve (12) months.

1.4 Compensation. The Contractor shall be paid a total Not-to-Exceed amount of \$14,200,000 for the initial Contract term and \$7,100,000 for each extension option as indicated in the Bid Sheet, IFB Section 0600. Payment shall be made upon successful completion of services or delivery of goods as outlined in each individual Delivery Order.

1.5 Quantity of Work. There is no guaranteed quantity of work for the period of the Contract and there are no minimum order quantities. Work will be on an as needed basis as specified by the City for each Delivery Order

This Contract (including any Exhibits) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

In witness whereof, the parties have caused a duly authorized representative to execute this Contract on the date set forth below.

PREMIER MAGNESIA LLC

CITY OF AUSTIN

Matthew Madolora
Signature

[Signature]
Signature

MATTHEW P MADOLORA
Printed Name of Authorized Person

Matthew Dwee
Printed Name of Authorized Person

DIRECTOR OF WATER TECHNOLOGY
Title

Procurement Manager
Title

4-29-19
Date

4-30-19
Date



**CITY OF AUSTIN, TEXAS
Purchasing Office
INVITATION FOR BID (IFB)
OFFER SHEET**

SOLICITATION NO: IFB 2200
SLW1001REBID

COMMODITY/SERVICE DESCRIPTION: Magnesium Hydroxide
Slurry and Equipment

DATE ISSUED: October 22, 2018

REQUISITION NO.: RQM 2200 18083100738

PRE-BID CONFERENCE TIME AND DATE: N/A

COMMODITY CODE: 2695657, 96878

LOCATION: N/A

**FOR CONTRACTUAL AND TECHNICAL
ISSUES CONTACT THE FOLLOWING
AUTHORIZED CONTACT PERSON:**

BID DUE PRIOR TO: November 6, 2018 at 2 PM

BID OPENING TIME AND DATE: November 6, 2018 at 3 PM

Sandy Wirtanen
Procurement Specialist IV

LOCATION: MUNICIPAL BUILDING, 124 W 8th STREET
RM 308, AUSTIN, TEXAS 78701

Phone: (512) 974-7711
E-Mail: sandy.wirtanen@austintexas.gov

LIVE BID OPENING ONLINE:

Georgia Billela
Procurement Specialist III

**For information on how to attend the Bid Opening online, please select
this link:**

Phone: (512) 974-2939
E-Mail: Georgia.billela@austintexas.gov

<http://www.austintexas.gov/department/bid-opening-webinars>

**When submitting a sealed Offer and/or Compliance Plan, use the proper address for the type of service desired,
as shown below:**

Address for US Mail (Only)	Address for FedEx, UPS, Hand Delivery or Courier Service
City of Austin	City of Austin, Municipal Building
Purchasing Office-Response Enclosed for Solicitation # IFB 2200 SLW1001REBID	Purchasing Office-Response Enclosed for Solicitation # IFB 2200 SLW1001REBID
P.O. Box 1088	124 W 8 th Street, Rm 308
Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

NOTE: Offers must be received and time stamped in the Purchasing Office prior to the Due Date and Time. It is the responsibility of the Offeror to ensure that their Offer arrives at the receptionist's desk in the Purchasing Office prior to the time and date indicated. Arrival at the City's mailroom, mail terminal, or post office box will not constitute the Offer arriving on time. See Section 0200 for additional solicitation instructions.

All Offers (including Compliance Plans) that are not submitted in a sealed envelope or container will not be considered.

The Vendor agrees, if this Offer is accepted within 120 calendar days after the Due Date, to fully comply in strict accordance with the Solicitation, specifications and provisions attached thereto for the amounts shown on the accompanying Offer.

SUBMIT 1 ORIGINAL AND 1 ELECTRONIC COPY (USB FLASH DRIVE) OF YOUR RESPONSE

*****SIGNATURE FOR SUBMITTAL REQUIRED ON PAGE 3 OF THIS DOCUMENT*****

This solicitation is comprised of the following required sections. Please ensure to carefully read each section including those incorporated by reference. By signing this document, you are agreeing to all the items contained herein and will be bound to all terms.

SECTION NO.	TITLE	PAGES
0100	STANDARD PURCHASE DEFINITIONS	*
0200 V2	STANDARD SOLICITATION INSTRUCTIONS, UPDATED JUNE 26, 2018	*
0300	STANDARD PURCHASE TERMS AND CONDITIONS	*
0400	SUPPLEMENTAL PURCHASE PROVISIONS	10
0500	SPECIFICATION	8
0600	BID SHEET – Must be completed and returned with Offer	2
0605	LOCAL BUSINESS PRESENCE IDENTIFICATION FORM – Complete and return	2
0700	REFERENCE SHEET – Complete and return if required	2
0800	NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION–Complete and return	2
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	*
0810 V2	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION, UPDATED JUNE 26, 2018	*
0815	LIVING WAGES CONTRACTOR CERTIFICATION–Complete, sign and return	1
0835	NONRESIDENT BIDDER PROVISIONS – Complete and return	1
0900	SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM – Complete & return	1
0905	SUBCONTRACTING/SUB-CONSULTING UTILIZATION PLAN – Complete and return if applicable	3
ATTACHMENT A	SLURRY/PRIMARY CLARIFIER EFFLUENT MIXTURE PREPARATION PROCEDURE	1
ATTACHMENT B	REQUEST FOR INFORMATION (RFI) 2200 SLW6001 COMMENTS SUMMARY	2

*** Documents are hereby incorporated into this Solicitation by reference, with the same force and effect as if they were incorporated in full text. The full text versions of the * Sections are available on the Internet at the following online address:**

http://www.austintexas.gov/financeonline/vendor_connection/index.cfm#STANDARDBIDDOCUMENTS

If you do not have access to the Internet, you may obtain a copy of these Sections from the City of Austin Purchasing Office located in the Municipal Building, 124 West 8th Street, Room #308 Austin, Texas 78701; phone (512) 974-2500. Please have the Solicitation number available so that the staff can select the proper documents. These documents can be mailed, expressed mailed, or faxed to you.

The undersigned, by his/her signature, represents that he/she is submitting a binding offer and is authorized to bind the respondent to fully comply with the solicitation document contained herein. The Respondent, by submitting and signing below, acknowledges that he/she has received and read the entire document packet sections defined above including all documents incorporated by reference, and agrees to be bound by the terms therein.

Company Name: Premier Magnesia, LLC

Company Address: 1725 Drummers Lane, Suite 120

City, State, Zip: Wayne, PA 19087

Vendor Registration No. _____

Printed Name of Officer or Authorized Representative: Mary Evans

Title: South Central Regional Account Manager

Signature of Officer or Authorized Representative: Mary Evans

Date: 10/29/18

Email Address: mevans@premiermagnesia.com

Phone Number: 903-245-6316

*** Completed Bid Sheet, section 0600 must be submitted with this signed Offer sheet to be considered for award**

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

By submitting an Offer in response to the Solicitation, the Contractor agrees that the Contract shall be governed by the following terms and conditions. Unless otherwise specified in the Contract, Sections 3, 4, 5, 6, 7, 8, 20, 21, and 36 shall apply only to a Solicitation to purchase Goods, and Sections 9, 10, 11 and 22 shall apply only to a Solicitation to purchase Services to be performed principally at the City's premises or on public rights-of-way.

1. **CONTRACTOR'S OBLIGATIONS**. The Contractor shall fully and timely provide all Deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.
2. **EFFECTIVE DATE/TERM**. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.
3. **CONTRACTOR TO PACKAGE DELIVERABLES**: The Contractor will package Deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price. Unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.
4. **SHIPMENT UNDER RESERVATION PROHIBITED**: The Contractor is not authorized to ship the Deliverables under reservation and no tender of a bill of lading will operate as a tender of Deliverables.
5. **TITLE & RISK OF LOSS**: Title to and risk of loss of the Deliverables shall pass to the City only when the City actually receives and accepts the Deliverables.
6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the Deliverables. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Agency".
7. **RIGHT OF INSPECTION AND REJECTION**: The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the Deliverables at delivery before accepting them, and to reject defective or non-conforming Deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the Deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.
8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of Deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.
9. **PLACE AND CONDITION OF WORK**: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City

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harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

10. **WORKFORCE**

- A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
- B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property .
 - i. use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or
 - ii. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.
- C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

11. **COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS:** The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

12. **INVOICES:**

- A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.
- B. **Proper Invoices must include a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.
- C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and Deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.
- D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.
- E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

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13. **PAYMENT:**

- A. All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the Deliverables or of the invoice, whichever is later.
- B. **If payment is not timely made, (per paragraph A), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**
- C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.
- D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:
 - i. delivery of defective or non-conforming Deliverables by the Contractor;
 - ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
 - iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
 - iv. damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
 - v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
 - vi. failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or
 - vii. failure of the Contractor to comply with any material provision of the Contract Documents.
- E. Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.
- F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
- G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any Deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

14. **TRAVEL EXPENSES:** All travel, lodging and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Solicitation will be reviewed against the City's Travel Policy as published and maintained by the City's Controller's Office and the Current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

<http://www.gsa.gov/portal/category/21287>

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No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of detailed itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulations.

15. FINAL PAYMENT AND CLOSE-OUT:

- A. If an MBE/WBE Program Compliance Plan is required by the Solicitation, and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Project manager or Contract manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements of the Compliance Plan as accepted by the City.
- B. The making and acceptance of final payment will constitute:
 - i. a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and
 - ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

16. SPECIAL TOOLS & TEST EQUIPMENT: If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

17. AUDITS and RECORDS:

- A. The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.
- B. Records Retention:
 - i. Contractor is subject to City Code chapter 2-11 (Records Management), and as it may subsequently be amended. For purposes of this subsection, a Record means all books, accounts, reports, files, and other data recorded or created by a Contractor in fulfillment of the Contract whether in digital or physical format, except a record specifically relating to the Contractor's internal administration.
 - ii. All Records are the property of the City. The Contractor may not dispose of or destroy a Record without City authorization and shall deliver the Records, in all requested formats and media, along with all finding aids and metadata, to the City at no cost when requested by the City
 - iii. The Contractor shall retain all Records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer.
- C. The Contractor shall include sections A and B above in all subcontractor agreements entered into in connection with this Contract.

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18. SUBCONTRACTORS:

- A. If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective Deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.
- B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:
 - i. require that all Deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
 - ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
 - iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
 - iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
 - v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.
- C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.
- D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

19. WARRANTY-PRICE:

- A. The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like Deliverables under similar terms of purchase.
- B. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.
- C. In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like Deliverables under similar terms of purchase.

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20. **WARRANTY – TITLE:** The Contractor warrants that it has good and indefeasible title to all Deliverables furnished under the Contract, and that the Deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the Deliverables.
21. **WARRANTY – DELIVERABLES:** The Contractor warrants and represents that all Deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the Deliverables shall be new or recycled merchandise, and not used or reconditioned.
- A. Recycled Deliverables shall be clearly identified as such.
 - B. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.
 - C. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the Deliverables or from the date of acceptance of any replacement Deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming Deliverables, or replace the non-conforming Deliverables with fully conforming Deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
 - D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming Deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of Deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming Deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such Deliverables from another source.
 - E. If the Contractor is not the manufacturer, and the Deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.
22. **WARRANTY – SERVICES:** The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.
- A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
 - B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
 - C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be

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required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

23. **ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES**: If, instead of requiring immediate correction or removal and replacement of defective or non-conforming Deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming Deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming Deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.
24. **RIGHT TO ASSURANCE**: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
25. **STOP WORK NOTICE**: The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.
26. **DEFAULT**: The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 24, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.
27. **TERMINATION FOR CAUSE**: In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.
28. **TERMINATION WITHOUT CAUSE**: The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.
29. **FRAUD**: Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

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30. **DELAYS:**

- A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in paragraph 48. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.
- B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

31. **INDEMNITY:**

- A. Definitions:
 - i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:
 - (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or
 - (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),
 - ii. "Fault" shall include the sale of defective or non-conforming Deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.
- B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

32. **INSURANCE:** (reference Section 0400 for specific coverage requirements). The following insurance requirement applies. (Revised March 2013).

A. **General Requirements.**

- i. The Contractor shall at a minimum carry insurance in the types and amounts indicated in Section 0400, Supplemental Purchase Provisions, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- ii. The Contractor shall provide Certificates of Insurance with the coverages and endorsements required in Section 0400, Supplemental Purchase Provisions, to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the

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City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.

- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.
- vi. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- vii. If insurance policies are not written for amounts specified in Section 0400, Supplemental Purchase Provisions, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- viii. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
- ix. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
- x. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
- xi. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. Self-insured retentions shall be disclosed on the Certificate of Insurance.
- xii. The Contractor shall provide the City thirty (30) calendar days' written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.
- xiii. The insurance coverages specified in Section 0400, Supplemental Purchase Provisions, are required minimums and are not intended to limit the responsibility or liability of the Contractor.

B. Specific Coverage Requirements: Specific insurance requirements are contained in Section 0400, Supplemental Purchase Provisions

33. **CLAIMS:** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the

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Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2nd Street, 4th Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

34. **NOTICES:** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at P.O. Box 1088, Austin, Texas 78767 and marked to the attention of the Contract Administrator.
35. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL:** All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.
36. **NO WARRANTY BY CITY AGAINST INFRINGEMENTS:** The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the Deliverables and (ii) the Deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the Deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any claim that the City's exercise anywhere in the world of the rights associated with the City's ownership, and if applicable, license rights, and its use of the Deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties stated in this Contract. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf. Further, Contractor agrees that the City's specifications regarding the Deliverables shall in no way diminish Contractor's warranties or obligations under this paragraph and the City makes no warranty that the production, development, or delivery of such Deliverables will not impact such warranties of Contractor.
37. **CONFIDENTIALITY:** In order to provide the Deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.
38. **PUBLICATIONS:** All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

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39. **ADVERTISING**: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.
40. **NO CONTINGENT FEES**: The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.
41. **GRATUITIES**: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Austin with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.
42. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**: No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.
43. **INDEPENDENT CONTRACTOR**: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.
44. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.
45. **WAIVER**: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.
46. **MODIFICATIONS**: The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.
47. **INTERPRETATION**: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

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48. DISPUTE RESOLUTION:

- A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

- B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

49. JURISDICTION AND VENUE: The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

50. INVALIDITY: The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

51. HOLIDAYS: The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11

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Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

52. **SURVIVABILITY OF OBLIGATIONS:** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

53. **NON-SUSPENSION OR DEBARMENT CERTIFICATION:**

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

54. **EQUAL OPPORTUNITY**

A. **Equal Employment Opportunity:** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

B. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

55. **BUY AMERICAN ACT-SUPPLIES (Applicable to certain Federally funded requirements)**

A. Definitions. As used in this paragraph –

i. "Component" means an article, material, or supply incorporated directly into an end product.

ii. "Cost of components" means -

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

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- iii. "Domestic end product" means-
 - (1) An unmanufactured end product mined or produced in the United States; or
 - (2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
- iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.
- v. "Foreign end product" means an end product other than a domestic end product.
- vi. "United States" means the 50 States, the District of Columbia, and outlying areas.
- B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
- C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.
- D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

CITY OF AUSTIN
SUPPLEMENTAL PURCHASE PROVISIONS
MAGNESIUM HYDROXIDE SLURRY AND EQUIPMENT
VERSION 2 SOLICITATION NUMBER: IFB 2200 SLW1001REBID

The following Supplemental Purchasing Provisions apply to this solicitation:

1. **EXPLANATIONS OR CLARIFICATIONS:** (reference paragraph 5 in Section 0200)

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office by one week prior to the offer closing date by 1:00 PM CST. Any requests should be emailed to sandy.wirtanen@austintexas.gov.

2. **INSURANCE:** Insurance is required for this solicitation.

A. **General Requirements:** See Section 0300, Standard Purchase Terms and Conditions, paragraph 32, entitled Insurance, for general insurance requirements.

- i. The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to contract execution and within 14 calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award
- ii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iii. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.
- iv. The Certificate of Insurance, and updates, shall be mailed to the following address:

City of Austin Purchasing Office
P. O. Box 1088
Austin, Texas 78767

OR PURInsuranceCompliance@austintexas.gov

B. **Specific Coverage Requirements:** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

- i. **Worker's Compensation and Employers' Liability Insurance:** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee.
 - (1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Form WC420304, or equivalent coverage
 - (b) Thirty (30) days Notice of Cancellation, Form WC420601, or equivalent coverage
- ii. **Commercial General Liability Insurance:** The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injury).
 - (1) The policy shall contain the following provisions:
 - (a) Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
 - (b) Contractor/Subcontracted Work.
 - (c) Products/Completed Operations Liability for the duration of the warranty period.
 - (d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and/or Underground Coverage.
 - (2) The policy shall also include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage

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- (b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
 - (c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage
 - iii. **Business Automobile Liability Insurance:** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
 - (1) The policy shall include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Endorsement CA0444, or equivalent coverage
 - (b) Thirty (30) days Notice of Cancellation, Endorsement CA0244, or equivalent coverage
 - (c) The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.
 - C. **Endorsements:** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.
3. **TERM OF CONTRACT:**
- A. The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of 24 months. The Contract may be extended beyond the initial term for up to three additional 12 month periods at the City's sole option. If the City exercises any extension option, all terms, conditions, and provisions of the Contract shall remain in effect for that extension period, subject only to any economic price adjustment otherwise allowed under the Contract.
 - B. Upon expiration of the initial term or any period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary for the City to re-solicit and/or complete the deliverables due under this Contract. Any hold over period will not exceed 120 calendar days unless mutually agreed on by both parties in writing.
 - C. Upon written notice to the Contractor from the City's Purchasing Officer or his designee and acceptance of the Contractor, the term of this contract shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above.
 - D. Prices are firm and fixed for the first 12 months. Thereafter, price changes are subject to the Economic Price Adjustment provisions of this Contract.
4. **QUANTITIES:** The quantities listed herein are estimates for the period of the Contract. The City reserves the right to purchase more or less of these quantities as may be required during the Contract term. Quantities will be as needed and specified by the City for each order. Unless specified in the solicitation, there are no minimum order quantities.
5. **DELIVERY REQUIREMENTS FOR ALL FACILITIES:**
- A. Contractors may request a site visit through the authorized contact person to ensure delivery conditions are acceptable PRIOR to submitting a bid. Otherwise, the City will assume that the delivery conditions are acceptable to the Contractor submitting a bid.
 - B. If the Contractor changes the trucking company to one that is different than the one listed on the bid sheet, the Contractor must notify the Plant Operations Supervisor or designee, in writing, at least one week prior to any deliveries made by the new company.

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- C. Delivery drivers must be able to speak fluent English. This is vital prior to accepting a load because testing may take place. If compliance cannot be determined, the load may be rejected by the Plant Operations Supervisor or designee.
- D. The Contractor shall accept orders by phone/fax/email, on an "as needed" basis. The Plant Operations Supervisor/Designee will contact the Contractor to place an order and provide a delivery date and quantity. The Contractor shall confirm delivery date within business days of receiving the order request. No partial shipment or backorders shall be allowed.
- E. Drivers must check in at the administrative building upon arrival. The driver shall not offload the product unless the Plant Operations Supervisor or designee accompanies the driver to the area where the product will be unloaded.
- F. The chemical will be purchased on a weight basis and the Contractor shall provide weight certificates from state certified scales. An individual certified scale receipt indicating the date, the tare and gross weight shall accompany each delivered load. A Safety Data Sheet (SDS) shall also be provided with each delivered load. Failure to provide these documents on or before each delivery may constitute grounds for termination of the contract.
- G. The City reserves the right to collect a sample and perform tests to determine product specification conformance prior to the offloading the delivery. If it is determined the sample does not meet product specifications, the City shall not provide payment for that chemical delivery.
- H. The Contractor shall be responsible for cleanup of any spillage or leakage during transportation and/or on the Plant site due to defective pumping and/or unloading equipment and/or negligence of the driver.
- I. Delivery shall be made according to the location placing the order. If the Contractor makes a delivery on any day other than the scheduled delivery date, the City will not be charged demurrage for any delays encountered in unloading the truck. The Plant Operations Supervisor or designee will be present during all deliveries.
- J. The Contractor shall complete by 2:00 p.m. any transferring to the storage tank without demurrage of additional truck standing time charges.
- K. If a truck arrives to deliver on a Saturday, Sunday, holiday, or after 2:00 p.m. (City regular work day) without the prior approval from the Plant Operations Supervisor or designee, the City will charge the Contractor any and all overtime and call back expenses for unloading. Otherwise, the Contractor can decide that the truck will not be unloaded until normal City working hours.
- L. Delivery shall be made in bulk trucks. Trucks shall be equipped with the correct unloading equipment, hoses and fittings to transfer the chemical.
- M. The Contractor shall provide, with each delivery, a Shipping or Delivery Ticket showing the description of each item, quantity, and unit price.
- N. The Contractor shall confirm the quantity to be shipped on orders within two hours of notification by phone from the Plant Operations Supervisor or designee.
- O. The Contractor shall obtain sign-off on the Chemical Delivery Notice on every delivery. Orders will be placed by phone/fax/email by the Plant Operations Supervisor or designee, on an "as needed" basis. No partial shipment or backorder will be allowed. A Chemical Delivery Notice shall be submitted to the Plant Operations Supervisor or designee, a minimum four hours prior to delivery.
- P. In the emergency event that this product is needed at other City of Austin facilities, the Contractor shall deliver to alternate facilities on an as-needed basis as requested by the Plant Operations Supervisor or designee at the same price as bid.

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6. DELIVERY REQUIREMENTS FOR REMOTE FACILITIES:

- A. The Contractor shall deliver on an as-needed basis for each remote facility listed in table below, *including weekends and Holidays* for approximately 3,600 – 3,800 gallons of slurry per truck delivery for a total of approximately 300 dry-tons per year during contract period.
- B. Orders shall be made in full truckloads only. Deliveries will not be accepted at other times unless scheduled and approved by the Plant Operations Supervisor or designee.
- C. The Contractor shall top off all magnesium hydroxide tanks a minimum of one time every 21 calendar days, including Holidays or as requested by the Plant Operations Supervisor or designee.

Ellery Studivant, Division Manager Walnut Creek WWTP 7113 FM 969 Austin, TX 78727 512-972-0610 ellery.studivant@austintexas.gov		
Delivery Locations	Tank Size (gallons)	No. of Tanks
Dessau WWTP 1601 Fish Lane Pflugerville, TX 78660	5,500	1
Lost Creek WWTP 6104 1/2 Turtle Point Rd. Austin, TX 78746	5,500	1
Wild Horse WWTP 10621 Blue Bluff Rd. Manor, TX 78653	5,500	1

7. DELIVERY REQUIREMENTS FOR SAR WWTP:

- A. The Contractor shall deliver on an as-needed basis, including weekends and Holidays for approximately 3,600 – 3,800 of slurry per truck delivery for a total of approximately 675 dry-tons per year during contract period.
- B. SAR shall have at least one tank for each of the three treatment trains and up to two feed points at Train A and one feed point at Train C.
- C. Deliveries shall be made within five calendar days after the order is placed, including weekends and Holidays for “as needed” deliveries. The Contractor shall accept orders by phone/fax/email. No partial shipment or backorder shall be allowed. The Contractor shall deliver product with a minimum of 24-hours notification.

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Richard O'Donnell, Operations Supervisor SAR WWTP 1017 Fallwell Lane Del Valle, TX 78617 512-972-0614 richard.odonnell@austintexas.gov		
Delivery Locations	Tank Size (gallons)	No. of Tanks
SAR WWTP 1017 Fallwell Lane Del Valle, TX 78617	5,500	3

8. **DELIVERY REQUIREMENTS FOR WALNUT WWTP:**

- A. The Contractor shall deliver on an as-needed basis, including weekends and Holidays for approximately 3,600 – 3,800 gallons of slurry per truck delivery for a total of approximately 8,000 dry-tons per year during contract period.
- B. Walnut Creek WWTP shall have four tanks each with a pump and feed point for the plant.
- C. Deliveries shall be made within five calendar days after the order is placed, including weekends and Holidays for “as needed” deliveries. The Contractor shall accept orders by phone/fax/email. No partial shipment or backorder shall be allowed. The Contractor shall deliver product with a minimum of 24-hours notification.

Augmed Weber, Plant Superintendent Walnut WWTP 7113 FM 969 Austin, TX 78724 512-972-1428 agmed.weber@austintexas.gov		
Delivery Locations	Tank Size (gallons)	No. of Tanks
Walnut WWTP 7113 FM 969 Austin, TX 78724	5,500	4

9. **SAMPLES – EXACT REPLICA:**

- A. The Offeror shall submit three 1 liter exact replicas of the goods to be provided per specifications. These samples shall be provided with the bid submittal. The samples shall be not less than 1 liter sample of the chemical prior to recommendation of award. The samples shall be provided in a packed airtight container and accompanied by a SDS and an affidavit that the Magnesium Hydroxide Slurry complies with the material requirements of the specification.

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- B. All products provided to the City under this solicitation will be evaluated or tested and must meet all requirements of the specification, regardless of whether or not all requirements are to be evaluated or tested.
- C. Samples will be provided at no cost to the City, will be retained by the City, and may be used for use in assuring compliance with materials specifications after award. Failure to supply samples when requested shall subject the Offer to disqualification from consideration for award.
- D. The sample will be tested for compliance with the City specifications. Tests will be performed by an independent laboratory chosen by the City.
- E. The City reserves the right to conduct sampling analysis during the bid process and throughout the contract period.
10. **INVOICES and PAYMENT:** (reference paragraphs 12 and 13 in Section 0300)
- A. Invoices shall contain a unique invoice number and the information required in Section 0300, paragraph 12, entitled "Invoices." Invoices received without all required information cannot be processed and will be returned to the vendor. In the event that an invoice is received without all the required information, a revised invoice with all the required information shall be dated within 1-2 days of the day the revised invoice was emailed. The revised invoice shall not be dated as the original invoice. All invoices shall be emailed on Mondays only. In addition, the date delivery was made and location of delivery shall be included in the Invoice.
- B. Invoices shall include a completed and signed Chemical Delivery Notice, chemical analysis, and certified scale receipt for each delivery. The City will pay based on dry-tons of magnesium hydroxide, as stated in the certificate of analysis received with each load. The City will spot check loads and if there is a discrepancy between the City's results and the certificate of analysis, the City's result will be the one used for payment. If the Contractor disagrees a third party lab will be retained to run the sample. If the result is closer to the City's result, the Contractor will pay for the analysis. If the result is closer to the Contractor's result, the City will pay.
- C. Invoices shall be emailed to the following email address for each respected facility:
- AWLIFTSTATIONSAP@austintexas.gov
- AWWALNUTAP@austintexas.gov
- AWSARAP@austintexas.gov
- D. Invoices shall include:
- Contractor's name, on a professionally pre-printed, sequentially numbered form
 - Contractor's address and phone number
 - City's contract number/purchase order number
 - Date of each delivery
 - Location of each delivery
 - Itemized description of the service and pricing for each delivery
 - Chemical Delivery Notice
 - Invoices shall be dated within 1-2 days of the day invoice was emailed.
 - "Make-up" invoices shall have updated invoice date that's within 1-2 days of the day the "make-up" invoice was emailed.
- E. The Contractor agrees to accept payment by credit card, check or Electronic Funds Transfer (EFT) for all goods and/or services provided under the Contract. The Contractor shall factor the cost of

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processing credit card payments into the Offer. There shall be no additional charges, surcharges, or penalties to the City for payments made by credit card.

11. **HAZARDOUS MATERIALS:**

- A. If this Solicitation involves hazardous materials, the Offeror shall furnish with the Offer Material Safety Data Sheets (MSDS), (OSHA Form 20), on all chemicals and hazardous materials specifying the generic and trade name of product, product specification, and full hazard information including receiving and storage hazards. Instructions, special equipment needed for handling, information on approved containers, and instructions for the disposal of the material are also required.
- B. Failure to submit the MSDS as part of the Offer may subject the Offer to disqualification from consideration for award.
- C. The MSDS, instructions and information required in paragraph "A" must be included with each shipment under the contract.

12. **LIVING WAGES:**

The City's Living Wage Program, Rule R161-17.14, is located at:

<http://www.austintexas.gov/edims/document.cfm?id=277854>

- A. The minimum wage required for all Contractor Employees (and all tiers of Subcontracting) directly assigned to this City Contract is \$15.00 per hour, unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain solicitations in order to assure quality and continuity of service.
- B. The City requires Contractors submitting Offers on this Contract to provide a certification (**see the Living Wages Contractor Certification included in the Solicitation**) with their Offer certifying that all Contractor Employees (and all tiers of Subcontracting) directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$15.00 per hour. The certification shall include a list of all Contractor Employees (and all tiers of Subcontracting) directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.
- C. The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA).
- D. The Contractor shall provide to the Department's assigned Contract Manager with the first invoice, individual Employee Certifications for all Contractor Employees (and all tiers of Subcontracting) directly assigned to the contract. The City reserves the right to request individual Employee Certifications at any time during the contract term. Employee Certifications shall be signed by each Contractor Employee (and all tiers of Subcontracting) directly assigned to the contract. The Employee Certification form is available on-line at https://www.austintexas.gov/financeonline/vendor_connection/index.cfm.
- E. Contractor shall submit employee certifications for Contractor Employees (and all tiers of Subcontracting) annually on the anniversary date of contract award with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract. The Employee Certification Forms shall be submitted for Contractor Employees (and all tiers of Subcontracting) added to the contract and/or to report any employee changes as they occur.
- F. The Department's assigned Contract Manager will periodically review the employee data submitted by the Contractor to verify compliance with this Living Wage provision. The City retains the right to review employee records required in paragraph C above to verify compliance with this provision.

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13. **NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING:**

On Nov June 14, 2018, the Austin City Council adopted Ordinance No. 20180614-056 replacing Chapter 2.7, Article 6 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures). The City requires Offerors submitting Offers on this Solicitation to certify that the Offeror has not in any way directly or indirectly had communication restricted in the ordinance section 2-7-104 during the No-Lobbying Period as defined in the Ordinance. The text of the City Ordinance is posted on the Internet at: https://assets.austintexas.gov/purchase/downloads/New_ALO_Ordinance_No_20180614-056.pdf and is also included in the Solicitation, [Section 0200 V2, Solicitation Instructions June 26, 2018](#).

14. **WORKFORCE SECURITY CLEARANCE AND IDENTIFICATION (ID):**

- A. Access to the Austin Water Department building by the Contractor, all subcontractors and their employees will be strictly controlled at all times by the City. Security badges will be issued by the Department for this purpose. The Contractor shall submit a complete list of all persons requiring access to the Austin Water building at least thirty (30) days in advance of their need for access. The City reserves the right to deny a security badge to any Contractor personnel for reasonable cause. The City will notify the Contractor of any such denial no more than twenty (20) days after receipt of the Contractor's submittal.
- B. Where denial of access by a particular person may cause the Contractor to be unable to perform any portion of the work of the contract, the Contractor shall so notify the City's Contract Manager, in writing, within ten (10) days of the receipt of notification of denial.
- C. Contractor personnel will be required to check in at the security desk when entering or leaving the Austin Water building and security badges must be on display at all times when in the building. Failure to do so may be cause for removal of Contractor Personnel from the worksite, without regard to Contractor's schedule. Security badges may not be removed from the premises.
- D. The Contractor shall provide the City's Contract Manager with a list of personnel scheduled to enter the building, seven days in advance. The list shall identify the persons by name, date of birth, driver's license number, the times that they will be inside the building and the areas where they will be working. Only persons previously approved by the City for the issuance of security badges will be admitted to the building.
- E. The Contractor shall comply with all other security requirements imposed by the City and shall ensure that all employees and subcontractors are kept fully informed as to these requirements.

15. **ECONOMIC PRICE ADJUSTMENT:**

- A. **Price Adjustments:** Prices shown in this Contract shall remain firm for the first 12 months of the Contract. After that, in recognition of the potential for fluctuation of the Contractor's cost, a price adjustment (increase or decrease) may be requested by either the City or the Contractor on the anniversary date of the Contract or as may otherwise be specified herein. The percentage change between the contract price and the requested price shall not exceed the percentage change between the specified index in effect on the date the solicitation closed and the most recent, non-preliminary data at the time the price adjustment is requested. The requested price adjustment shall not exceed twenty five percent (25%) for any single line item and in no event shall the total amount of the contract be automatically adjusted as a result of the change in one or more line items made pursuant to this provision. Should the City not agree with the requested increase, Contractor may either maintain the prices currently in effect or negotiate an acceptable increase with the City. Prices for products or services unaffected by verifiable cost trends shall not be subject to adjustment.

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- B. **Effective Date:** Approved price adjustments will go into effect on the first day of the upcoming renewal period or anniversary date of contract award and remain in effect until contract expiration unless changed by subsequent amendment.
- C. **Adjustments:** A request for price adjustment must be made in writing and submitted to the other Party prior to the yearly anniversary date of the Contract; adjustments may only be considered at that time unless otherwise specified herein. Requested adjustments must be solely for the purpose of accommodating changes in the Contractor's direct costs. Contractor shall provide an updated price listing once agreed to adjustment(s) have been approved by the parties. Should the City not agree with the requested increase, Contractor may either maintain the prices currently in effect, or shall have the option to terminate the contract after providing a minimum of 180 days written notice to the City.
- D. **Indexes:** In most cases an index from the Bureau of Labor Standards (BLS) will be utilized; however, if there is more appropriate, industry recognized standard then that index may be selected.
- i. The following definitions apply:
- (1) **Base Period:** Month and year of the original contracted price (the solicitation close date).
 - (2) **Base Price:** Initial price quoted, proposed and/or contracted per unit of measure.
 - (3) **Adjusted Price:** Base Price after it has been adjusted in accordance with the applicable index change and instructions provided.
 - (4) **Change Factor:** The multiplier utilized to adjust the Base Price to the Adjusted Price.
 - (5) **Weight %:** The percent of the Base Price subject to adjustment based on an index change.
- ii. **Adjustment-Request Review:** Each adjustment-request received will be reviewed and compared to changes in the index(es) identified below. Where applicable:
- (1) Utilize final Compilation data instead of Preliminary data
 - (2) If the referenced index is no longer available shift up to the next higher category index.
- iii. **Index Identification:** Complete table as they may apply.

Weight % or \$ of Base Price: 100%	
Database Name: Bureau of Labor Statistics	
Series ID: PCU325180325180	
<input checked="" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted
Geographical Area: National	
Description of Series ID: Other basic inorganic chemical manufacturing	
This Index shall apply to the following items of the Bid Sheet / Cost Proposal: All	

- E. **Calculation:** Price adjustment will be calculated as follows:

Single Index: Adjust the Base Price by the same factor calculated for the index change.

Index at time of calculation
Divided by index on solicitation close date
Equals Change Factor
Multiplied by the Base Rate
Equals the Adjusted Price

- F. If the requested adjustment is not supported by the referenced index, the City, at its sole discretion, may consider approving an adjustment on fully documented market increases.

16. **INTERLOCAL PURCHASING AGREEMENTS:**

- A. The City has entered into Interlocal Purchasing Agreements with other governmental entities, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees

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to offer the same prices and terms and conditions to other eligible governmental agencies that have an interlocal agreement with the City.

- B. The City does not accept any responsibility or liability for the purchases by other governmental agencies through an interlocal cooperative agreement.
17. **CONTRACT MANAGER**: The following person is designated as Contract Manager, and will act as the contact point between the City and the Contractor during the term of the Contract:

Lydia Rodriguez – Torres, Contract Management Specialist III

512-972-0329

Lydia.torres@austintexas.gov

*Note: The above listed Contract Manager is not the authorized Contact Person for purposes of the **NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING Provision** of this Section; and therefore, contact with the Contract Manager is prohibited during the no contact period.

**CITY OF AUSTIN
SCOPE OF WORK
MAGNESIUM HYDROXIDE SLURRY AND EQUIPMENT
SOLICITATION NUMBER: IFB 2200 SLW1001REBID**

1.0 BACKGROUND/PURPOSE

The City of Austin (“City”) seeks a qualified Vendor (“Contractor”) who can provide magnesium hydroxide (“Magnesium Hydroxide Slurry”), installation, and operation and maintenance of equipment (tanks, pump, and piping) for the dosing of Magnesium Hydroxide Slurry into the wastewater treatment process at the Walnut, South Austin Regional, Dessau, Lost Creek, and Wild Horse Wastewater Treatment Plants.

The City of Austin issued a Request for Information (RFI) 2200 SLW6001 to obtain comments on the Magnesium Hydroxide Slurry and Equipment Scope of Work on September 12, 2018 - September 19, 2018. A summary of the RFI comments that were submitted and reviewed by the City are available in Attachment B.

Any services that have been omitted from this specification which are clearly necessary or in conformance with Magnesium Hydroxide Slurry, shall be considered a requirement although not directly specified or called for in this scope of work. Where there is a conflict, these specifications will govern.

Contractors may bid on one line item or all line items. The City reserves the right to award to one or more vendors based on individual or groups of specific line items; whichever is in the best interest of the City. The contract will support Austin Water (AW). The City reserves the right to add or delete departments as deemed necessary.

2.0 APPLICABLE SPECIFICATIONS

2.1 The Contractor shall ensure the Magnesium Hydroxide Slurry complies with Federal, State and Locals Laws, ordinances guidelines and AW guidelines for this type of chemical.

2.2 The Contractor shall comply with :

- Environmental Protection Agency (EPA).
- Texas Commission on Environmental Quality (TCEQ)
- Occupational Safety and Health Administration (OSHA) safety requirements.
- Federal Motor Carrier Safety Regulations, specifically 49CFR part 383.
- City of Austin Ordinances and regulations.
- National Electric Code standards.

2.3 Electrical components of the chemical feed systems shall be installed by Texas-licensed and bonded electricians/Contractors and shall meet all requirements, including the following:

- City of Austin Specification 16150 - Raceways, Fittings and Supports.
- City of Austin Specification 16200 – Wires, Conductor and Cable – 600 V and Below.

3.0 MATERIAL REQUIREMENTS

3.1 The Magnesium Hydroxide Slurry shall conform to the following specifications:

Slurry Basis	Minimum	Maximum
Mg (OH) ₂ contained, lb/gal	6	8
Dry Solids Basis		
Percent Solids, %	50	60
Alkalinity as CaCO ₃ , lbs/gal	>10	
Insoluble matter, wt%		<1
Mg (OH) ₂ , wt%	91	99
CaO, wt%		<1
SiO ₂ , wt%		<1
Fe ₂ O ₃ , wt%		<0.25

**CITY OF AUSTIN
SCOPE OF WORK
MAGNESIUM HYDROXIDE SLURRY AND EQUIPMENT
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Median Particle Size, Micron		<10
% Passing 325 Mesh Sieve	>=99	
Physical Properties of Slurry		
Density, lbs./gal.	12	13
Viscosity, cps	100	500

3.2 The Contractor shall provide the location where the Magnesium Hydroxide Slurry originates and also provide the manufacturing location. The source of the Magnesium Hydroxide Slurry will not be allowed to change during the life of the contract without the prior approval of the Plant Operations Supervisor.

4.0 PRODUCT PERFORMANCE

4.1 Slurry/primary effluent mixtures will be prepared as outlined in Attachment A.

4.2 The slurry samples will be tested and evaluated for alkalinity supplement performance by City personnel only. (Note: No exceptions to this condition will be granted). All slurry samples submitted will be tested equally under the same test conditions with no deviation from stated test conditions during the test period. Award will be based on the lowest extended price after calculation of the **true cost** of the product. The steps below outlines the sequence of calculations to ultimately determine the adjustment factors that will be applied to the dry-tonnage to calculate the adjusted dry-tons.

1. Analysis results for pH and Alkalinity (mg/L) of primary clarifier effluent (by City Lab):

Primary Eff.	pH (su)	Alk (mg/L)

2. Calculation of lbs solids/gal slurry (% Solids and lb/gal slurry results obtained from 3rd party lab):

Slurry	% Solids	lb/gal slurry	lb solids/gal slurry
A			
B			
C			

3. Calculation of slurry dosage (mL) to dose in 2 L of primary clarifier effluent to achieve 100 mg (dry solids)/L:

Slurry	Test Dose, (mg/L)	Slurry Dosage (mL) in 2 L
A	100	
B	100	
C	100	

4. Calculation of slurry dosage (mL) to dose in 2 L of primary clarifier effluent to achieve 150 mg (dry solids)/L:

Slurry	Test Dose, (mg/L)	Slurry Dosage (mL) in 2 L
A	150	
B	150	
C	150	

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5. Analysis results for pH and Alkalinity (mg/L) at 100 mg (dry solids)/L (by City Lab):

Slurry	pH (su)	Alk (mg/L)
A		
B		
C		

6. Analysis results for pH and Alkalinity (mg/L) at 150 mg (dry solids)/L (by City Lab):

Slurry	pH (su)	Alk (mg/L)
A		
B		
C		

7. Calculation of alkalinity adjustment factors at each concentration and averages:

Slurry	Alk Adj. Factor (100 mg/L)	Alk Adj. Factor (150 mg/L)	Avg. Alk Adj. Factor
A			
B			
C			

8. Calculation of adjusted dry-tons to be used to determine final cost:

Slurry	Dry-Tons	Avg Alk Adj. Factor	Adj. Dry-Tons
A	8,975		
B	8,975		
C	8,975		

4.3 Primary clarifier effluent will be obtained from the Walnut Creek Wastewater Treatment Plant. Slurry and primary clarifier effluent mixtures will be prepared as outlined in Attachment A. Mixtures will be prepared for 100 mg (dry solids)/L and 150 mg (dry solids)/L. Since calculating the required slurry dosage to achieve 100 and 150 mg (dry solids)/L requires the slurry results (% solids and lb/gal slurry) from the third party lab, preparation of the slurry/primary clarifier effluent mixtures will be prepared and analyzed for pH and alkalinity (mg/L) once the results from the third party lab are obtained which can be several weeks. The pH and alkalinity (mg/L) will be analyzed only for the slurry samples that meet all material specifications. The primary clarifier effluent will be obtained from the plant on the day the slurry/primary clarifier effluent samples are prepared. Note that the pH will only be used for information purposes.

5.0 CONTRACTOR RESPONSIBILITIES

- 5.1 The Contractor shall be a manufacturer, authorized dealer/reseller, or supplier of the products offered.
- 5.2 The Contractor shall **include in the bid submittal**: three 1-liter samples of Magnesium Hydroxide Slurry, an affidavit that the Magnesium Hydroxide Slurry complies with the applicable requirements of this specification, and a Safety Data Sheet (SDS).
- 5.3 After contract award, the Contractor shall call the Plant Operations Supervisor to schedule a kick-off meeting within five (5) business days to discuss this contract, delivery schedule and requirements.
- 5.4 At the kick off meeting, the Contractor shall provide, a 24-hour office phone number, cell phone number, fax number and representative who will be able to respond to this contract.

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- 5.5 The Contractor and employees shall wear the necessary Personal Protective Equipment while on City property; to include a helmet, vest, and steel-toed boots.
- 5.6 Manufacturer Data – the Contractor shall indicate the manufacturer’s name of the product and shall indicate the shipping address/location from where the material is being shipped. In the event this information changes during the contract period and prior to shipping the first shipment from the new location, the Contractor shall submit written notification to each Plant facility and receive approval from the City.
- 5.7 The City reserves the right to test the Contractor's product at any time during the contract period.
- 5.8 The Contractor shall notify the Plant Operations Supervisor or designee in writing throughout the life of the contract of any changes in manufacture, product name and/or, if a manufacturer discontinues a Contract Item. The Contractor shall receive approval prior to any changes.
- 5.9 The Contractor shall request in writing approval from the Plant Operations Supervisor or designee on any contract product substitution.
- 5.10 The Contractor shall replace the Magnesium Hydroxide Slurry within 12 hours of notification that the slurry was not in accordance with the specifications. The Contractor shall remove the chemical and replace it with an equivalent quantity of the acceptable chemical at the Contractor’s expense.
- 5.11 The Contractor shall provide a turnkey chemical storage and feed system at each designated site designed specifically for a Magnesium Hydroxide Slurry feed rate. Key components are listed below:
- Storage Tank and Fill Pipe
 - Mixing System
 - Control Panel
 - Monitor/Controller
 - Dosing system including pump and piping
 - Tank level indicator (level of amount of chemical in the tank)
- 5.12 The Contractor shall provide and install tanks and feed equipment in the quantities and capacities as listed in the table below:

Locations	Storage Tanks		Pumps		
	Qty.	Nominal Volume (gal)	Qty.	Capacity (gpd)	Feed Points
SAR WWTP - Train A	1	5,500	2	250	2
SAR WWTP - Train B	1	5,500	2	250	2
SAR WWTP - Train C	1	5,500	1	300	1
Walnut Creek WWTP	4	5,500	4	6,000	1
Dessau WWTP	1	5,500	1	200	1
Lost Creek WWTP	1	5,500	1	200	1
Wild Horse WWTP	1	5,500	1	200	1

- 5.13 The Contractor shall be responsible for coordinating equipment installation including electrical work with the City.
- 5.14. The Contractor shall be responsible for delivery, installation, and maintenance of a complete and fully functioning chemical feed system. All feed system components shall be compatible for use with Magnesium Hydroxide Slurry.
- 5.15 The Contractor shall provide staff with relevant field experience to monitor operate and maintain each feed site to ensure reliable chemical supply and dosing.

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- 5.16 The Contractor shall provide operation, maintenance and inspection services for each chemical feed location. Services shall include, but not be limited to the following:
- Inspecting the pump and pump motor for proper working condition (2x/month).
 - Inspecting the pump hose for proper working condition (2x/month).
 - Inspecting the mixer shaft, hub, blades and gearbox motor for proper working condition that includes proper balance and alignment (2x/month).
 - Inspecting the gearbox oil levels for proper working condition (2x/month).
 - Changing the gearbox oil (every 6 months).
 - Inspecting the pump Hz and compare with scheduled pump Hz (2x/month).
 - Inspecting the power supply to feed unit (2x/month).
 - Inspecting the feed unit valves and electrical switches to insure they are in proper position and record position of hand/auto switch prior to departure.
 - Flushing the feed line hosing (2x/month).
- 5.18 Response time shall be within 24 hours of notification.
- 5.19 The Contractor shall have twenty four (24) hours to respond to any alarms, system performance, or equipment failures discovered during routine inspections by the City or the Contractor.
- 5.20 The Contractor shall respond to emergencies and chemical spills immediately upon discovery or within two hours from notification by the City.
- 5.21 The Contractor shall provide a Bill of Lading with each chemical delivery documenting gallons and dry-weight of slurry delivered.
- 5.22 The Contractor shall include the following information **with the bid submittal**:
- 5.22.1 Safety Data Sheet (SDS) for the slurry, showing the CAS number of the slurry. An electronic copy of the SDS sheet shall be transmitted by the Contractor to the following City email address at contract execution: awumsds@austintexas.gov.
- 5.22.2 The Contractor shall **include with the bid submittal**, three current municipal wastewater references within the State of Texas who utilize the product for alkalinity supplementation they are proposing with this bid.
- 5.22.3 The Contractor shall **include with the bid submittal** the name of the manufacturer of the material and its shipping point.
- 5.23 The Contractor shall not impede the operation of the plant. If the Plant Operations Supervisor determines that the Contractor is interfering with the plant's operation, the Plant Operations Supervisor reserves the right to stop work and reschedule. The Contractor shall complete the tank installation within four (4) weeks after contract execution.
- 5.24 The Contractor shall ensure the installation area is left in the same condition as prior to installation. Any damages, hazards, etc. caused by the Contractor and/or employees shall be reported to the Plant Operations Supervisor within 30 minutes or before leaving the work area, whichever is sooner. Repairs shall be completed by the Contractor within 2 business days, at no additional cost to the City.
- 5.25 The Plant Operations Supervisor will inspect and approve the work completed upon installation of the equipment and periodically throughout the contract period. The work will not be considered complete until the Plant Operations Supervisor has verified that the requirements have been fulfilled. Any changes/repairs shall be made at no additional cost to the City.
- 5.26 The Plant Operations Supervisor will be the sole judge of acceptability of the work.

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5.27 Plant Operations Supervisor:

City of Austin, Austin Water Utility
Richard O'Donnell, Plant Operations Supervisor
1017 Fallwell Lane.
Del Valle, TX 78617
Cell - (512) 799-5988 richard.odonnell@austintexas.gov

5.28 The City reserves the right to add and/or delete locations, as it deems necessary, at the same bid price.

6.0 EQUIPMENT REQUIREMENTS

6.1 Magnesium Hydroxide Slurry Storage Tanks

6.1.1 The storage tank shall be suitable for above ground, vertical installation and shall be designed to withstand mechanical forces superimposed by a slurry agitator agitating the maximum density slurry. The tank shall be incorporated with flanges to allow for the Contractor's ultrasonic level indicators to be attached, or installed according to manufacturer specification.

6.1.2 The Contractor shall be responsible for proper labeling of storage tanks in compliance with current federal, state and local requirements. The Contractor shall not transport or deliver chemical into any tank or vessel which is not properly labeled.

6.2 Slurry mixer parts shall be weatherproof and designed and proportioned for ample strength, stability, and stiffness for the intended purpose. Each mixer and drive assembly shall be designed for 24 hour per day continuous operation service and be suitable for outdoor service. The mixing system shall be constructed of weatherproof materials.

6.3 Chemical Feed Pumps

6.3.1 The Contractor shall provide one chemical peristaltic type pump per injection site. There are nine injection points. The pumps shall be capable of pumping Magnesium Hydroxide Slurry against pressures up to 50 psi at the desired dosages.

6.3.2 The pump shall be sized by the Contractor and be capable of continuous and intermittent operation and allow volume adjustments without clogging issues to meet the minimum and maximum chemical dosing requirements to meet alkalinity requirements.

6.4 Chemical Fill/Feed Piping

6.4.1 Fill/Feed piping shall be stainless steel. Pump suction/discharge lines shall be schedule 80 PVC or reinforced rubber hose suitable for above ground installation and be compatible with Magnesium Hydroxide Slurry. PVC pipe must be protected from UV exposure. Pumps shall be plumbed with water connections and appropriate valves to easily allow periodic flushing of pump suction/discharge lines.

6.4.2 Fittings, valves and seals shall be compatible with magnesium hydroxide in the regular operation, maintenance and cleaning of the chemical feed system.

6.5 Control Panel

6.5.1 The control system shall contain the following components at a minimum:

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- Main Power Disconnect
- PLC
- Pump H/O/A Selector Switch
- Mixer ON/OFF Selector Switch
- Tank level indicator (level of amount of chemical in the tank)

7.0 MOBILIZATION AND DEMOBILIZATION

7.1 The Contractor shall furnish and install the chemical storage and feed systems at the locations listed below:

Treatment Plant	Address
Dessau WWTP	1601 Fish Lane, Pflugerville, TX 78660
Lost Creek WWTP	6104 1/2 Turtle Point Road, Austin, TX 78746
Wild Horse WWTP	10621 Blue Bluff Road, Manor, TX 78653
SAR WWTP	1017 Fallwell Lane, Del Valle, TX 78617
Walnut WWTP	7113 FM 969, Austin, TX 78724

7.2 The Contractor shall be responsible for the coordination and cost of mobilizing all equipment and services related to the successful installation of the chemical feed system at each site.

7.3 Mobilization services include all activities and associated costs for transportation of Contractor’s personnel, equipment and operating supplies to the site, and establishment of chemical feed system to meet the requirements of these specifications.

7.4 The Contractor may coordinate a site visit, through the Authorized Contact, to each of the proposed sites prior to bidding and develop a Sequence of Installation and Start-Up Plan in an effort to minimize the disruption of the existing alkalinity supplementation for no more than the allotted time summarized in the table below. A total of five (5) business days (Monday-Friday) shall be allotted to each Plant where a block of time shall be designated to disrupt the existing alkalinity feed, if necessary. The Plan shall detail the Contractor’s installation means and methods to minimize prolonged disruption of the existing alkalinity supplementation in an effort to avoid treatment process upsets at each of the Plants specified herein. The Contractor shall coordinate with the existing magnesium hydroxide Contractor to remove the existing tanks and feed equipment owned by the existing Contractor in such a manner to minimize prolonged alkalinity supplementation disruption. If necessary, temporary/alternate alkalinity feed systems shall be put in place by the Contractor in an effort to remove existing equipment (to be coordinated with Contractor of equipment) and install the new tanks and feed equipment in an effort to avoid prolonged alkalinity feed disruption. The Sequence of Installation and Start-Up Plan will be submitted with Bid for review by Plant staff.

Proposed Existing Alkalinity Feed Disruption during Installation

Treatment Plant	Business Days	Duration (hrs)/day	Time Window	Current Mag. Feed Rate (gpd)
Dessau WWTP	5	6	7:00 am - 1:00 pm	100
Lost Creek WWTP	5	6	7:00 am - 1:00 pm	100
Wild Horse WWTP	5	6	7:00 am – 1:00 pm	100
South Austin Regional WWTP	5	8	7:00 am - 3:00 pm	500
Walnut Creek WWTP	5	6	7:00 am - 1:00 pm	6,000

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Existing Tank and Feed Equipment

Location	Storage Tanks		Pumps
	Qty.	Volume (gal)	Qty.
SAR WWTP-Train A	1	6,000	2
SAR WWTP-Train B	1	6,000	2
SAR WWTP-Train C	1	6,000	1
Walnut Creek WWTP	4	6,000	4
Dessau WWTP	1	4,000	1
Lost Creek WWTP	1	4,000	1
Wild Horse WWTP	1	4,000	1

- 7.5 Upon termination of the Contract, the Contractor shall coordinate and be responsible for the cost of demobilization, site restoration to pre-setup conditions, and removal of Contractor-owned equipment and materials.
- 7.6 Demobilization services include all activities and costs for transportation of Contractor’s personnel, equipment, and supplies from the site, including the disassembly and removal of equipment and site cleanup. Demobilization services shall be complete within thirty (30) days of notification of contract termination. The Contractor shall coordinate with any future contractor at the expiration of the resulting contract.

8.0 SECURITY

- 8.1 The City requires the Contractor to identify bulk chemical deliveries and driver information to the treatment plants to assure safe and accurate orders. The Contractor shall FAX a completed “Chemical Delivery Notice” (Attachment A) to the Plant Operations Supervisor or designee within 4 business hours prior to dispatching driver for delivery. The driver must provide a photo ID (any U.S. state) to the Plant Operations Supervisor or designee, no exceptions.
- 8.2 Transportation of Hazardous Material to a City location must be in compliance with the Federal Motor Carrier Safety Regulations, specifically 49CFR part 383 which governs commercial driver license standards requirements and penalties. In accordance with this regulation, delivery driver shall present to Plant staff a Class C CDL with an H or an X endorsement at the time of delivery.
- 8.3 Hazardous Material is defined under 49 CFR part 383.5 as:

Any material that has been designated as hazardous referencing 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR Subpart F, Part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.

ATTACHMENT A

Slurry/Primary Clarifier Effluent Mixture Preparation Procedure for Solicitation IFB 2200 SLW1001REBID

Magnesium Hydroxide Slurry

Step 1 – Obtain primary clarifier effluent from Walnut Creek Wastewater Treatment Plant on the day the mixtures will be prepared.

Step 2 – Fill mixing containers with 2 L each of primary clarifier effluent.

Step 3 - Add xx mL (determined after 3rd party lab results are received) of slurry to 2 L of primary clarifier effluent to obtain 100 mg of solids/L for each slurry.

Step 4 – Add xx mL (determined after 3rd party lab results are received) of slurry to 2 L of primary clarifier effluent to obtain 150 mg of solids/L for each slurry.

Step 5 – Mix slurry/primary clarifier effluent mixtures at 200 rpm for 2 minutes.

Step 6 – Mix slurry/primary clarifier effluent mixtures at 30 rpm for 3 minutes.

Step 7 – Stop mixing and let mixtures sit for 10 minutes undisturbed.

Step 8 – Obtain 250 mL of each mixture from just below the surface of the mixture.

Step 9 – Obtain 250 mL of primary clarifier effluent (no slurry).

Step 10 –Put all 250 mL samples bottles in ice and send to City Lab for pH and alkalinity analysis (Standards Method SM 2320 B Alkalinity – 1997, Ed. Rev 2011).

Attachment B - RFI Comments Summary

COMPANY	SECTION	DESCRIPTION
Garrison Minerals	Testing	<p>Proposed Test Method for ALK:</p> <p>Step 1 - Obtain 2 L of primary effluent from WCWWTP for each slurry sample submitted</p> <p>Step 2 - Measure pH and Alkalinity (Standards Methods SM3320 B Alkalinity-1997, Ed Rev 2011) of primary effluent</p> <p>Step 3 - Add 0.5 mL of slurry to 2 L of primary effluent to get a 250 part per million (ppm) slurry/primary effluent mixture.</p> <p>Step 4 - Mix at 200 RPM for 2 minutes, then mix at 3 RPM for 3 minutes</p> <p>Step 5 - After 10 minutes of settling (no mixing), obtain sample just below a scum floating on top, but not draw any of the sludge settled at the bottom and measure the pH and alkalinity</p> <p>Step 6 - Add 1.0 mL of slurry to 2 L of primary effluent to get a 500 part per million (ppm) slurry/primary effluent mixture</p> <p>Step 7 - Repeat Step 4 for 00 ppm slurry/primary effluent mixture</p> <p>Step 8 - Repeat Step 5 for 00 ppm slurry/primary effluent mixture</p> <p>Step 9 - Calculate linear slope of alkalinity to ppm relationship for each slurry</p> <p>Step 10 - Calculate ppm needed to reach maximum alkalinity result from the slurries tested</p> <p>Step 11 - Calculate ppm Adjustment Factor based on the results from Step 10</p>
Garrison Minerals	Testing	The test does not appear to take into account variability in % Solids of Magnesium Hydroxide Slurries (MHS) provided. Example: If bidder 1 supplies a MgOH2 slurry at 57.75% solids, whereas bidder 2 supplies a 54.75% MgOH2 Solids - how is the 3% solids differential taken into account? Assuming both the 54.75% and 57.75% samples meet the specification found in the 3.0 Material Specification
Garrison Minerals	Testing	Can the City provide information on how this test protocol takes into account the variable 50-60% solids solution allowed for the proposed specification?
Garrison Minerals	Testing	To the best of our understanding, the City is looking for a Magnesium Hydroxide Slurry that provides the highest amount of ALK per lb at the most competitive price per dry ton. The vendor is responsible for the storage and dosing equipment so the viscosity, particle size 99% passing 325 mesh should not be taken into consideration if the product will pump, flow and mix with the wastewater while providing the lowest cost per lb of alkalinity.
Garrison Minerals	Section 3.0	The suggested specification is compatible with other bid requirements the City of Austin has published. None of the changes to the specification affect the overall testing method as proposed by the City in this RFI. This suggested specification could potentially allow for a greater number of bidders to submit proposals and provide the best value to the City.
Forsythe Brothers		What is the estimated annual dry tons per day or gallons per day usage at WCWWTP? As a bidder, I would expect the bid estimate to be within 10% of actual usage. If that quantity changes in subsequent years beyond 15%, I feel the price per ton should be increased to offset this misinformation.
Forsythe Brothers	Table 5.12	RFI shows WC capacity of 6,000 gpd. The previous Mag Hyd Slurry bid was 4,915 dry tons per year at WC. This roughly equates to 4300-4500 gallons per day. The City has bid, cancelled, and intends to rebid a contract for Calcium Hydroxide slurry for use at WC. The City has also bid the WC secondary process improvements contract. Part of this project is a supplemental alkalinity feed system, which is intended for lime and actually designed with input from Burnett Lime Company. At the prebid for the secondary process improvement project, the City was very clear on the intent to switch to Lime and emphasized how much money they are paying for magnesium hydroxide. Please clarify in detail how the City plans to phase in lime and phase out Magnesium Hydroxide?
Forsythe Brothers		Clarify how a future MHS solicitation will address this simultaneous use of lime slurry. Will the large storage tanks and alkalinity feed systems installed as a part of the WC secondary process improvement project mean that the MH tanks and feed system will be removed?
Forsythe Brothers	Section 5.11	We believe a key component of the chemical storage and feed system in 5.11 should include a pump, suction line and discharge flushing system that is on an adjustable scheduler. We have noticed clogging issues with the current installation without periodic flushing. Water is available at all of these sites and needs to be incorporated into a routine flushing sequence.
Forsythe Brothers	Section 5.11	We based tank level monitoring, dosage rate control, and flushing scheduler should be added to 5.11 system requirements.
Forsythe Brothers		Show the City's cost comparison of lime versus MHS per dry ton for a given alkalinity. Include the \$1,170,000 cost of the supplemental alkalinity feed system as quoted by Burnett Lime Company for the WC supplemental alkalinity feed system project. Lime is less expensive per ton but you will need approximately 2.85 gallons of 34% lime slurry to equal the alkalinity of 1 gallon of 55% magnesium hydroxide. Truck traffic to the WC plant will more than double and Hornsby Bend will have increased sludge and disposal costs with lime.
Forsythe Brothers		Explain the strict viscosity limits of this specification. Why is 500 cps the critical upper limit? Should we be more concerned with the change in viscosity of the chemical as it sits in the tank over a period of 30-60 days in the case of Dessau or Wildhorse which use less gallons per day? If the supplier can successfully pump a higher viscosity and provide a flushing system that ensure continuous dosage, shouldn't that be part of the metric that we judge total performance?

Attachment B - RFI Comments Summary

COMPANY	SECTION	DESCRIPTION
Premier Magnesia LLC	3.0 MATERIAL REQUIREMENTS	The material specifications table is too broad to determine product grade/quality of material. Consider testing for specific surface area.
Premier Magnesia LLC	4.0 PRODUCT PERFORMANCE	Consider evaluating dosages in a dry equivalent weight basis since pricing is based on a dry weight basis.
Premier Magnesia LLC	5.12 CONTRACTOR RESPONSIBILITIES	Consider the quantity of trucks and storage required to supply product since slurries from different vendors have different concentrations. Alternative testing procedures were also recommended.

CITY OF AUSTIN
 BID SHEET
 MAGNESIUM HYDROXIDE SLURRY AND EQUIPMENT
 SOLICITATION NUMBER: IFB 2206 SLW1001REBID

Special Instructions: Offerors must use this Bid Sheet to submit pricing. Be advised that altering the bid sheet or taking exceptions to any portion of the solicitation may jeopardize acceptance of your Offer.

The quantities noted below are estimates and not a guarantee of actual volume. The City does not guarantee the purchase of the quantities listed, actual purchases may be more or less. Quantities are provided as a guide based on historical or anticipated usage. Order quantities will be as-needed and specified by the City for each order.

A bid of "0" (zero) will be interpreted by the City as a no-charge (free) item and the City will not expect to pay for that item. A bid of "no bid" or no response (space left blank) will be interpreted by the City that the Offeror does not wish to bid on that item. Be advised, a "no bid" or no response may be considered as non-responsive and may result in disqualification of the bid.

Prices offered on the bid sheet shall be all inclusive of fees not expressly allowed in the scope of work. The Offeror shall not charge separately for administrative, overhead, per diem, and shipping or transportation costs (travel time, fuel surcharges, mileage, stop-fee, etc.) to deliver services or items to the Austin, Texas area. The Offeror shall provide all tools, labor, travel, and equipment necessary to perform the services required under this contract.

The City reserves the right to award a single contract based on overall low cost or multiple awards based on individual or categories/groups of specific line items, cost, or any criteria or combination deemed most advantageous to the City.

ITEM NO	ITEM DESCRIPTION	ESTIMATED ANNUAL QUANTITY	ADJUSTMENT FACTOR (TO BE CALCULATED BY THE CITY)	ADJ. ESTIMATED ANNUAL QUANTITY	UNIT OF MEASURE	UNIT PRICE	EXTENDED PRICE
1	Tank and Feed Equipment Rental and Operation & Maintenance for Walnut WWTP	12			month	\$ -	\$ -
2	Tank and Feed Equipment Rental and Operation & Maintenance for SAR WWTP	12			month	\$ -	\$ -
3	Tank and Feed Equipment Rental and Operation & Maintenance for Dessau WWTP	12			month	\$ -	\$ -
4	Tank and Feed Equipment Rental and Operation & Maintenance for Lost Creek WWTP	12			month	\$ -	\$ -
5	Tank and Feed Equipment Rental and Operation & Maintenance for Wild Horse WWTP	12			month	\$ -	\$ -
6	Mobilization/Demobilization and Installation for Walnut Creek WWTP	1			Lot	\$ -	\$ -
7	Mobilization/Demobilization and Installation for SAR WWTP	1			Lot	\$ -	\$ -
8	Mobilization/Demobilization and Installation for Dessau WWTP	1			Lot	\$ -	\$ -
9	Mobilization/Demobilization and Installation for Lost Creek WWTP	1			Lot	\$ -	\$ -
10	Mobilization/Demobilization and Installation for Wild Horse WWTP	1			Lot	\$ -	\$ -
11	Magnesium Hydroxide Slurry cost per dry tons of active product for Walnut WWTP	8,000			Dry-Tons	\$ 715.00	\$ 5,720,000.00
12	Magnesium Hydroxide Slurry cost per dry tons of active product for SAR WWTP	675			Dry-Tons	\$ 715.00	\$ 482,625.00
13	Magnesium Hydroxide Slurry cost per dry tons of active product for Dessau WWTP	100			Dry-Tons	\$ 715.00	\$ 71,500.00
14	Magnesium Hydroxide Slurry cost per dry tons of active product for Lost Creek WWTP	100			Dry-Tons	\$ 715.00	\$ 71,500.00
15	Magnesium Hydroxide Slurry cost per dry tons of active product for Wild Horse WWTP	100			Dry-Tons	\$ 715.00	\$ 71,500.00
TOTAL EXTENDED PRICE:							\$ 6,417,125.00

CITY OF AUSTIN
 BID SHEET
 MAGNESIUM HYDROXIDE SLURRY AND EQUIPMENT
 SOLICITATION NUMBER: IFB 2200 SLW1001REBID

Addition of Future Sites (PRICING FOR THIS SECTION WILL NOT BE USED TO DETERMINE AWARD)
 This information will not be used in the evaluation of the bid and is for informational purposes only. There is no guarantee of purchase.

ITEM NO.	ITEM DESCRIPTION	PRICE
16	Tank and Feed Equipment Rental and Operation & Maintenance for Additional Sites	1200 /month
17	Mobilization/Demobilization and Installation for Additional Sites	5000/ each
18	Magnesium Hydroxide Slurry cost per dry tons of active product for Additional Sites	715 / dry ton

Please check the boxes below as confirmation.

<input checked="" type="checkbox"/>	Offer Sheet - required
<input checked="" type="checkbox"/>	Bid Sheet (Section 0600) -required
<input checked="" type="checkbox"/>	Local Business Presence Identification Form (Section 0605) - If applicable
<input checked="" type="checkbox"/>	Reference Sheet (Section 0700) -required
<input checked="" type="checkbox"/>	Non-Discrimination Certification (Section 800) -required
<input checked="" type="checkbox"/>	Living Wages Contractor Certifications (Section 815) -required
<input checked="" type="checkbox"/>	Nonresident Provisions (Section 0835)- required
<input checked="" type="checkbox"/>	No Goals Form & No Goals Utilization Plan (Section 0900) - required
<input checked="" type="checkbox"/>	Subcontracting/Sub-Consulting ("Subcontractor") Utilization Plan (Section 0905) - if applicable
<input checked="" type="checkbox"/>	Submittals listed in Section 0500 Scope of Work
<input checked="" type="checkbox"/>	I UNDERSTAND THAT FAILURE TO SUBMIT THE COMPLETED FORMS ABOVE MAY RESULT IN DISQUALIFICATION OF MY BID
<input checked="" type="checkbox"/>	I UNDERSTAND THAT SUBMITTING WITH MY BID ANY CLARIFICATION STATEMENTS, QUALIFYING STATEMENTS, AND/OR EXCEPTIONS TO THE CITY'S TERMS AND CONDITIONS MAY RESULT IN DISQUALIFICATION OF MY BID

PRINTED NAME: Mary Evans, South Central Regional Account Manager, Premier Magnesia, LLC

EMAIL ADDRESS: mevans@premiermagnesia.com

Section 0605: Local Business Presence Identification

A firm (Offeror or Subcontractor) is considered to have a Local Business Presence if the firm is headquartered in the Austin Corporate City Limits, or has a branch office located in the Austin Corporate City Limits in operation for the last five (5) years, currently employs residents of the City of Austin, Texas, and will use employees that reside in the City of Austin, Texas, to support this Contract. The City defines headquarters as the administrative center where most of the important functions and full responsibility for managing and coordinating the business activities of the firm are located. The City defines branch office as a smaller, remotely located office that is separate from a firm's headquarters that offers the services requested and required under this solicitation.

OFFEROR MUST SUBMIT THE FOLLOWING INFORMATION FOR EACH LOCAL BUSINESS (INCLUDING THE OFFEROR, IF APPLICABLE) TO BE CONSIDERED FOR LOCAL PRESENCE.

NOTE: ALL FIRMS MUST BE IDENTIFIED ON THE MBE/WBE COMPLIANCE PLAN OR NO GOALS UTILIZATION PLAN (REFERENCE SECTION 0900).

USE ADDITIONAL PAGES AS NECESSARY

OFFEROR:

Name of Local Firm	Premier Magnesia, LLC	
Physical Address	13325 Kingman Drive Austin, Texas 78729	
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years?	Yes	No
Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No

SUBCONTRACTOR(S):

Name of Local Firm		
Physical Address		
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years?	Yes	No

Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No

SUBCONTRACTOR(S):

Name of Local Firm		
Physical Address		
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years	Yes	No
Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No

Section 0700: Reference Sheet

Responding Company Name Premier Magnesia, LLC

The City at its discretion may check references in order to determine the Offeror's experience and ability to provide the products and/or services described in this Solicitation. The Offeror shall furnish at least 3 complete and verifiable references. References shall consist of customers to whom the offeror has provided the same or similar services within the last 5 years. References shall indicate a record of positive past performance.

1. Company's Name Trinity River Authority Denton Creek Wastewater Treatment Plant
Name and Title of Contact John Bennett, Plant Manager
Project Name Odor, Corrosion and Alkalinity Supplementation to Plant
Present Address 1687 North Highway 377
City, State, Zip Code Roanoke, Texas 76262
Telephone Number (817) 430-4657 Fax Number ()
Email Address bennettj@trinityra.org

2. Company's Name City of Tyler
Name and Title of Contact Mike Schaub, Wastewater Superintendent
Project Name Alkalinity Supplementation for Southside and Westside Plants
Present Address 620 West Cumberland Road
City, State, Zip Code Tyler, Texas 75703
Telephone Number (903) 581-9635 Fax Number ()
Email Address mschaub@tylertexas.com

3. Company's Name Trinity River Authority Central Regional Wastewater Treatment Plant
Name and Title of Contact Mike Young, Plant Manager
Project Name Collection System Odor and Corrosion Control, Alkalinity Supplementation
Present Address 6500 Singleton Blvd
City, State, Zip Code Dallas, Texas 75212
Telephone Number (214) 876-1479 Fax Number ()
Email Address myoung@trinityra.org

City of Austin, Texas

Section 0800

NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION

City of Austin, Texas

Equal Employment/Fair Housing Office

To: City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Non-Discrimination and Non-Retaliation Policy set forth below.

City of Austin

Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination and non-retaliation employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE THE CITY A COPY OF THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICIES ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICIES, AS SET FORTH HEREIN, OR THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 and the City's Non-Retaliation Policy may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4 and the Non-Retaliation Policy.

Term:

The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor's separate conforming policy, which the Contractor has executed and filed with the City, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payment, the Contractor's Non-Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 29th day of October, 2018

CONTRACTOR	<u>Premier Magnesia, LLC</u>
Authorized Signature	<u>Mary Evans</u>
Title	<u>SC Regional Account Manager</u>

Section 0815: Living Wages Contractor Certification

Pursuant to the Living Wages provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees of the Prime Contractor and all tiers of subcontractors directly assigned to this City contract a minimum Living Wage equal to or greater than \$15.00 per hour.

- (1) The below listed individuals are all known employees of the Prime Contractor and its subcontractors who are directly assigned to this contract, and all are compensated at wage rates equal to or greater than \$15.00 per hour:

Employee Name	Employer	Prime or Sub	Your Normal Rate	Employee Job Title
Patrick Simmons	Premier Magnesia, LLC	Prime	\$21/hr	Field Service Tech

- (2) All future employees of both the Prime Contractor and all tiers of subcontractors directly assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$15.00 per hour.
- (3) Our firm will not retaliate against any employee of either the Prime Contractor or any tier of subcontractors claiming non-compliance with the Living Wage provision.

A Prime Contractor or subcontractor that violates this Living Wage provision shall pay each of its affected employees the amount of the deficiency for each day the violation continues. Willful or repeated violations of the provision by either the Prime Contractor or any tier of subcontractor, or fraudulent statements made on this certification, may result in termination of this Contract for Cause, subject the violating firm to possible suspension or debarment, or result in legal action.

I hereby certify that all the listed employees of both the Prime Contractor and all tiers of subcontractors who are directly assigned to this contract are paid a minimum Living Wage equal to or greater than \$15.00 per hour.

Contractor's Name: Premier Magnesia, LLC

Signature of Officer
or Authorized
Representative:

Mary Evans

Date: 10/29/18

Printed Name:

Mary Evans

Title

South Central Regional Account Manager

Section 0835: Non-Resident Bidder Provisions

Company Name Premier Magnesia, LLC

- A. Bidder must answer the following questions in accordance with Vernon's Texas Statutes and Codes Annotated Government Code 2252.002, as amended:

Is the Bidder that is making and submitting this Bid a "Resident Bidder" or a "non-resident Bidder"?

Answer: Non-Resident Bidder

- (1) Texas Resident Bidder- A Bidder whose principle place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.
- (2) Nonresident Bidder- A Bidder who is not a Texas Resident Bidder.

- B. If the Bidder is a "Nonresident Bidder" does the state, in which the Nonresident Bidder's principal place of business is located, have a law requiring a Nonresident Bidder of that state to bid a certain amount or percentage under the Bid of a Resident Bidder of that state in order for the nonresident Bidder of that state to be awarded a Contract on such bid in said state?

Answer: No Which State: Pennsylvania

- C. If the answer to Question B is "yes", then what amount or percentage must a Texas Resident Bidder bid under the bid price of a Resident Bidder of that state in order to be awarded a Contract on such bid in said state?

Answer: _____

Section 0900: SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)
PROCUREMENT PROGRAM
Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form**

SOLICITATION NUMBER: IFB 2200 SLW1001REBID
SOLICITATION TITLE: Magnesium Hydroxide Slurry and Equipment

In accordance with the City of Austin's Minority and Women-Owned Business Enterprises (M/WBE) Procurement Program (Program), Chapters 2-9A/B/C/D of the City Code and M/WBE Program Rules, this Solicitation was reviewed by the Small and Minority Business Resources Department (SMBR) to determine if M/WBE Subcontractor/Sub-Consultant ("Subcontractor") Goals could be applied. Due to insufficient subcontracting/subconsultant opportunities and/or insufficient availability of M/WBE certified firms, SMBR has assigned no subcontracting goals for this Solicitation. However, Offerors who choose to use Subcontractors must comply with the City's M/WBE Procurement Program as described below. Additionally, if the Contractor seeks to add Subcontractors after the Contract is awarded, the Program requirements shall apply to any Contract(s) resulting from this Solicitation.

Instructions:

- a.) Offerors who do not intend to use Subcontractors shall check the "NO" box and follow the corresponding instructions.
- b.) Offerors who intend to use Subcontractors shall check the applicable "YES" box and follow the instructions. **Offers that do not include the following required documents shall be deemed non-compliant or nonresponsive as applicable, and the Offeror's submission may not be considered for award.**

NO, I DO NOT intend to use Subcontractors/Sub-consultants.

Instructions: Offerors that do not intend to use Subcontractors shall complete and sign this form below (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form) and include it with their sealed Offer.

YES, I DO intend to use Subcontractors/Sub-consultants.

Instructions: Offerors that do intend to use Subcontractors shall complete and sign this form below (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Form), and follow the additional Instructions in the (Subcontracting/Sub-Consulting ("Subcontractor") Utilization Plan). Contact SMBR if there are any questions about submitting these forms.

Offeror Information

Company Name	Premier Magnesia, LLC		
City Vendor ID Code	8302995		
Physical Address	1275 Drummers Lane, Suite 102		
City, State Zip	Wayne, Pennsylvania 19087		
Phone Number	610-828-6929	Email Address	mevans@Premiermagnesia.com
Is the Offeror City of Austin M/WBE certified?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES Indicate one: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE Joint Venture		

Offeror Certification: I understand that even though SMBR did not assign subcontract goals to this Solicitation, I will comply with the City's M/WBE Procurement Program if I intend to include Subcontractors in my Offer. I further agree that this completed **Subcontracting/Sub-Consulting Utilization Form**, and if applicable my completed **Subcontracting/Sub-Consulting Utilization Plan**, shall become a part of any Contract I may be awarded as the result of this Solicitation. Further, if I am awarded a Contract and I am not using Subcontractor(s) but later intend to add Subcontractor(s), before the Subcontractor(s) is hired or begins work, I will comply with the City's M/WBE Procurement Program and submit the **Request For Change** form to add any Subcontractor(s) to the Project Manager or the Contract Manager for prior authorization by the City and perform Good Faith Efforts (GFE), if applicable. I understand that, if a Subcontractor is not listed in my **Subcontracting/Sub-Consulting Utilization Plan**, it is a violation of the City's M/WBE Procurement Program for me to hire the Subcontractor or allow the Subcontractor to begin work, unless I first obtain City approval of my **Request for Change** form. I understand that, if a Subcontractor is not listed in my **Subcontracting/Sub-Consulting Utilization Plan**, it is a violation of the City's M/WBE Procurement Program for me to hire the Subcontractor or allow the Subcontractor to begin work, unless I first obtain City approval of my **Request for Change** form.

Mary Evans, South Central Regional Acct. Mgr.

Mary Evans 10/29/18

Name and Title of Authorized Representative (Print or Type)

Signature/Date



**ADDENDUM
MAGNESIUM HYDROXIDE SLURRY AND EQUIPMENT
CITY OF AUSTIN, TEXAS**

Solicitation: IFB 2200 SLW1001REBID

Addendum No: 1

Date of Addendum: 10/31/2018

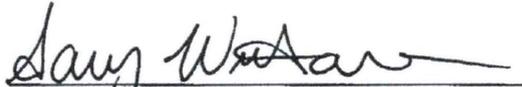
This addendum is to incorporate the following changes to the above referenced solicitation:

I. Changes to the solicitation dues date as follows:

- 1) The bid due date is hereby extended until 2:00 PM Tuesday, November 13, 2018
- 2) The bid opening date is hereby extended until 3:00 PM Tuesday, November 13, 2018

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY:


Sandy Wirtanen, Procurement Specialist IV
Purchasing Office, 512-974-7711

10/31/18
Date

ACKNOWLEDGED BY:

MARY EVANS
Name


Authorized Signature

10/31/18
Date

RETURN ONE COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE, CITY OF AUSTIN, WITH YOUR RESPONSE OR PRIOR TO THE SOLICITATION CLOSING DATE. FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION.



**ADDENDUM
MAGNESIUM HYDROXIDE SLURRY AND EQUIPMENT
CITY OF AUSTIN, TEXAS**

Solicitation: IFB 2200 SLW1001REBID

Addendum No: 2

Date of Addendum: 11/13/2018

This addendum is to incorporate the following changes to the above referenced solicitation:

I. Clarifications:

- 1) Supplemental Purchase Provisions, Section 0400, part 15.C has been revised to include the language below:

C. Adjustments: A request for price adjustment must be made in writing and submitted to the other Party prior to the yearly anniversary date of the Contract; adjustments may only be considered at that time unless otherwise specified herein. Requested adjustments must be solely for the purpose of accommodating changes in the Contractor's direct costs. Contractor shall provide an updated price listing once agreed to adjustment(s) have been approved by the parties. *Should the City not agree with the requested increase, Contractor may either maintain the prices currently in effect, or shall have the option to terminate the contract after providing a minimum of 180 days written notice to the City.*

II. Changes to the solicitation dues date as follows:

- 1) The bid due date is hereby extended until 2:00 PM Thursday, November 15, 2018
- 2) The bid opening date is hereby extended until 3:00 PM Thursday, November 15, 2018

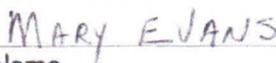
III. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

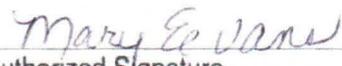
APPROVED BY:

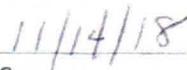

Sandy Wirtanen, Procurement Specialist IV
Purchasing Office, 512-974-7711


Date

ACKNOWLEDGED BY:


Name


Authorized Signature


Date

RETURN ONE COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE, CITY OF AUSTIN, WITH YOUR RESPONSE OR PRIOR TO THE SOLICITATION CLOSING DATE. FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION.

Premier Magnesia, LLC

Manufacturing, Distribution, and Delivery Information

Name of Product:

Thioguard®

Manufacturing Locations/Addresses:

1800 East Lake Road, Manistee, Michigan 49660

369 Feedmill Road, El Dorado AR 71730

Distribution Points:

369 Feedmill Road, El Dorado AR 71730

201 E. 1st Street, Venus, Tx 76084

7215 Highway 271 S, Fort Smith, AR 72908

3647 Willowbend Blvd., Houston, Tx 77054

Carriers:

American Petrolog

Dana Companies

Team Transport

Miller T

Celtic

American Petrolog

Chempak



SAFETY DATA SHEET

Issue Date 01-Dec-2014

Revision Date 06-Jan-2016

Version 2

1. IDENTIFICATION OF THE SUBSTANCE/PREPARATION AND OF THE COMPANY/UNDERTAKING

Product identifier

Product Name THIOGUARD®

Other means of identification

Product Code THIOGUARD®

Synonyms Magnesium Hydroxide, Mag Hydroxide, Hydrated Magnesia, Mg(OH)₂

Recommended use of the chemical and restrictions on use

Recommended Use Waste water treatment. Hydrogen sulfide control.

Uses advised against No information available

Details of the supplier of the safety data sheet

Manufacturer Address

Premier Magnesia, LLC, 1275 Drummers Lane, Suite 102, Wayne, PA 19087

Emergency telephone number

Company Phone Number 610-828-6929

24 Hour Emergency Phone Number Chemtrec 1-800-424-9300

Emergency Telephone Chemtrec 1-800-424-9300

2. HAZARDS IDENTIFICATION

Classification

OSHA Regulatory Status

Not hazardous in normal industrial use. Dust from dried product slurry is classified as a "nuisance particulate, not otherwise regulated" as specified by ACGIH and OSHA.

Not a dangerous substance or mixture according to the Globally Harmonized System (GHS)

Label elements

Emergency Overview

White to off-white aqueous slurry. Not a fire or spill hazard. Low toxicity. Dust is classified as a "nuisance particulate not otherwise regulated". Do not store in drums or tanks constructed of aluminum! See section 7.

Appearance Slurry

Physical state Liquid

Odor Odorless

Particulate may cause eye irritation

Low toxicity by skin contact

An unlikely route of exposure. If ingested in sufficient quantity may cause gastrointestinal disturbances. Symptoms may include irritation, nausea, vomiting and diarrhea.

Hazards not otherwise classified (HNOC)

Other information

3. COMPOSITION/INFORMATION ON INGREDIENTS

Common name Magnesium Hydroxide CAS# 1309-42-8.
Synonyms Magnesium Hydroxide, Mag Hydroxide, Hydrated Magnesia, Mg(OH)₂

Formula #1 Mg(OH)₂

Chemical Name	CAS No.	Weight-%	Trade Secret
Water	7732-18-5	39-47	
Magnesium Hydroxide	1309-42-8	53-61	

4. FIRST AID MEASURES

First aid measures

Eye contact Rinse thoroughly with plenty of water, also under the eyelids. If eye irritation persists: Get medical advice/attention.

Skin Contact Wash skin with soap and water.

Inhalation Remove to fresh air. If breathing has stopped, give artificial respiration. Get medical attention immediately.

Ingestion Ingestion is an unlikely route of exposure. If ingested in sufficient quantity and victim is conscious, give 1-2 glasses of water or milk. Never give anything by mouth to an unconscious person. Leave decision to induce vomiting to qualified medical personnel, since particles may be aspirated into the lungs. Seek immediate medical attention.

Most important symptoms and effects, both acute and delayed

Symptoms No information available.

Indication of any immediate medical attention and special treatment needed

Note to physicians Treat symptomatically.

5. FIRE-FIGHTING MEASURES

Suitable extinguishing media

Use extinguishing measures that are appropriate to local circumstances and the surrounding environment. Firefighters should wear NIOSH approved, positive pressure, self-contained breathing apparatus and full protective clothing when appropriate.

Unsuitable extinguishing media Caution: Use of water spray when fighting fire may be inefficient.

Specific hazards arising from the chemical

No information available.

Explosion data

Sensitivity to Mechanical Impact None.

Sensitivity to Static Discharge None.

Protective equipment and precautions for firefighters

As in any fire, wear self-contained breathing apparatus pressure-demand, MSHA/NIOSH (approved or equivalent) and full protective gear.

6. ACCIDENTAL RELEASE MEASURES

Personal precautions, protective equipment and emergency procedures

Personal precautions Ensure adequate ventilation, especially in confined areas.

Environmental precautions

Environmental precautions See Section 12 for additional ecological information.

Methods and material for containment and cleaning up

Methods for containment Prevent further leakage or spillage if safe to do so.

Methods for cleaning up Carefully clean up and place material into a suitable container, being careful to avoid creating excessive dust from dried product. If conditions warrant, clean up personnel should wear approved respiratory protection, gloves and goggles to prevent irritation from contact and/or inhalation.

7. HANDLING AND STORAGE

Precautions for safe handling

Advice on safe handling Handle in accordance with good industrial hygiene and safety practice.

Conditions for safe storage, including any incompatibilities

Storage Conditions Do not allow product to freeze. Do not store in drums or tanks constructed of aluminum!

Incompatible materials Maleic anhydride; Aluminum metal in contact with product may produce hydrogen.

8. EXPOSURE CONTROLS/PERSONAL PROTECTION

Control parameters

Exposure Guidelines This product, as supplied, does not contain any hazardous materials with occupational exposure limits established by the region specific regulatory bodies.

Appropriate engineering controls

Engineering Controls Provide sufficient ventilation, in both volume and air flow patterns to control mist/dust concentrations below allowable exposure limits.

Individual protection measures, such as personal protective equipment

Eye/face protection The use of eye protection is recommended.

Skin and body protection The use of eye protection, gloves and long sleeve clothing is recommended.

Respiratory protection Provide workers with NIOSH approved respirators in accordance with requirements of 29 CFR 1910.134 for level of exposure incurred.

General Hygiene Considerations Avoid contact with eyes, skin and clothing. After handling this product, wash hands before eating or drinking.

9. PHYSICAL AND CHEMICAL PROPERTIES

Information on basic physical and chemical properties

Physical state	Liquid	Odor	Odorless
Appearance	Slurry	Odor threshold	No information available
Color	White to off-white		

<u>Property</u>	<u>Values</u>	<u>Remarks - Method</u>
pH	10-11	
Melting point/freezing point	2100 °C >3800 °F	
Boiling point / boiling range	Loses free water at 100 °C ;Chemically combined water at 350°C	
Flash point	No information available	
Evaporation rate	Same as water	
Flammability (solid, gas)	No information available	
Flammability Limit in Air		
Upper flammability limit:	No information available	
Lower flammability limit:	No information available	
Vapor pressure	No information available	
Vapor density	No information available	
Specific Gravity	1.45	
Water solubility	No information available	Aqueous Slurry
Solubility in other solvents	No information available	
Partition coefficient	No information available	
Autoignition temperature	No information available	
Decomposition temperature	No information available	
Kinematic viscosity	No information available	
Dynamic viscosity	No information available	
Explosive properties	No information available	
Oxidizing properties	No information available	

Other Information

Softening point	No information available
Molecular weight	No information available
VOC Content (%)	No information available
Density	No information available
Bulk density	12.71-13.19 lb/gal

10. STABILITY AND REACTIVITY**Reactivity**

No data available

Chemical stability

Stable under recommended storage conditions.

Possibility of Hazardous Reactions

None under normal processing.

Hazardous polymerization

Hazardous polymerization does not occur.

Conditions to avoid

Extremes of temperature and direct sunlight.

Incompatible materials

Maleic anhydride; Aluminum metal in contact with product may produce hydrogen.

Hazardous Decomposition Products

Heat and steam.

11. TOXICOLOGICAL INFORMATION**Information on likely routes of exposure**

Product Information

Product does not present an acute toxicity hazard based on known or supplied information

Inhalation No data available.
 Eye contact No data available.
 Skin Contact No data available.
 Ingestion No data available.

Chemical Name	Oral LD50	Dermal LD50	Inhalation LC50
Water 7732-18-5	> 90 mL/kg (Rat)	-	-
Magnesium Hydroxide 1309-42-8	= 8500 mg/kg (Rat)	-	-

Information on toxicological effects

Symptoms No information available.

Delayed and immediate effects as well as chronic effects from short and long-term exposure

Irritation May cause eye irritation.
 Sensitization No information available.
 Germ cell mutagenicity No information available.
 Carcinogenicity No information available.
 Reproductive toxicity No information available.
 STOT - single exposure No information available.
 STOT - repeated exposure No information available.
 Aspiration hazard No information available.

Numerical measures of toxicity - Product Information

12. ECOLOGICAL INFORMATION

Ecotoxicity

No data available on any adverse effects of this material on the environment

Persistence and degradability

No information available.

Bioaccumulation

No information available.

Other adverse effects

No information available

13. DISPOSAL CONSIDERATIONS

Waste treatment methods

Disposal of wastes

This produce does not exhibit any characteristics of a hazardous waste. The product is suitable for landfill disposal once the free water component is evaporated or absorbed by a suitable absorbent (earth). Follow all applicable federal, state and local regulations for safe disposal.

Contaminated packaging

Do not reuse container.

14. TRANSPORT INFORMATION

Note: WARNING! Premier Magnesia, LLC prohibits this product from transportation or storage in tanks constructed of aluminum! See section 10.

DOT Not regulated by DOT as a hazardous material. No hazard class, label or placard required, no UN or NA number assigned.

15. REGULATORY INFORMATION

International Inventories

TSCA	Complies
DSL/NDL	Complies
EINECS/ELINCS	Complies
ENCS	Does not comply
IECSC	Complies
KECL	Complies
PICCS	Complies
AICS	Complies

Legend:

TSCA - United States Toxic Substances Control Act Section 8(b) Inventory
 DSL/NDL - Canadian Domestic Substances List/Non-Domestic Substances List
 EINECS/ELINCS - European Inventory of Existing Chemical Substances/European List of Notified Chemical Substances
 ENCS - Japan Existing and New Chemical Substances
 IECSC - China Inventory of Existing Chemical Substances
 KECL - Korean Existing and Evaluated Chemical Substances
 PICCS - Philippines Inventory of Chemicals and Chemical Substances
 AICS - Australian Inventory of Chemical Substances

US Federal Regulations**SARA 313**

Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). This product does not contain any chemicals which are subject to the reporting requirements of the Act and Title 40 of the Code of Federal Regulations, Part 372

SARA 311/312 Hazard Categories

Acute health hazard	No
Chronic Health Hazard	No
Fire hazard	No
Sudden release of pressure hazard	No
Reactive Hazard	No

CWA (Clean Water Act)

This product does not contain any substances regulated as pollutants pursuant to the Clean Water Act (40 CFR 122.21 and 40 CFR 122.42)

CERCLA

This material, as supplied, does not contain any substances regulated as hazardous substances under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (40 CFR 302) or the Superfund Amendments and Reauthorization Act (SARA) (40 CFR 355). There may be specific reporting requirements at the local, regional, or state level pertaining to releases of this material

US State Regulations**California Proposition 65**

This product does not contain any Proposition 65 chemicals This product does not contain chemicals known to the state of California to cause birth defects or other reproductive harm.

U.S. State Right-to-Know Regulations

Chemical Name	New Jersey	Massachusetts	Pennsylvania
Water 7732-18-5	-	-	X

U.S. EPA Label Information

EPA Pesticide Registration Number Not Applicable

16. OTHER INFORMATION

<u>NFPA</u>	Health hazards	1	Flammability	0	Instability	0	Physical and Chemical Properties	-
<u>HMS</u>	Health hazards	0	Flammability	0	Physical hazards	0	Personal protection	X

Revision Date 06-Jan-2016

Revision Note

No information available

Disclaimer

The information provided in this Safety Data Sheet is correct to the best of our knowledge, information and belief at the date of its publication. The information given is designed only as a guidance for safe handling, use, processing, storage, transportation, disposal and release and is not to be considered a warranty or quality specification. The information relates only to the specific material designated and may not be valid for such material used in combination with any other materials or in any process, unless specified in the text.

End of Safety Data Sheet

GOAL DETERMINATION REQUEST FORM

Buyer Name/Phone	Sandy Wirtanen 512-974-7711	PM Name/Phone	N/A
Sponsor/User Dept.	Austin Water	Sponsor Name/Phone	Lydia Torres 512-972-0329
Solicitation No	IFB 2200 SLW1001REBID	Project Name	Magnesium Hydroxide Slurry and Equipment
Contract Amount	\$10,000,000	Ad Date (if applicable)	ASAP

Procurement Type

- | | | |
|--|---|--|
| <input type="checkbox"/> AD – CSP | <input type="checkbox"/> AD – CM@R | <input type="checkbox"/> AD – Design Build |
| <input type="checkbox"/> AD – Design Build Op Maint | <input type="checkbox"/> AD – JOC | <input type="checkbox"/> IFB – Construction |
| <input type="checkbox"/> IFB – IDIQ | <input type="checkbox"/> PS – Project Specific | <input type="checkbox"/> PS – Rotation List |
| <input checked="" type="checkbox"/> Nonprofessional Services | <input checked="" type="checkbox"/> Commodities/Goods | <input type="checkbox"/> Cooperative Agreement |
| <input type="checkbox"/> Critical Business Need | <input type="checkbox"/> Interlocal Agreement | <input type="checkbox"/> Ratification |
| <input type="checkbox"/> Sole Source* | | |

Provide Project Description**

The City of Austin seeks to establish a contract with a qualified Contractor who can provide magnesium hydroxide, installation, and operation and maintenance of equipment (tanks, pump, and piping) for the dosing of Magnesium Hydroxide Slurry into the wastewater treatment process.

Project History: Was a solicitation previously issued; if so were goals established? Were subcontractors/subconsultants utilized? Include prior Solicitation No.

Previous solicitation was IFB STA1080 with no goals and no subcontractors utilized. This is also a rebid of SLW1001 that was not assigned goals.

List the scopes of work (commodity codes) for this project. (Attach commodity breakdown by percentage; eCAPRIS printout acceptable)

2695657 - Magnesium Hydroxide - 50%
 96878 - Tank Installation, Removal, Disposal - 50%

Sandy Wirtanen 10/3/2018

Buyer Confirmation **Date**

* Sole Source must include Certificate of Exemption

**Project Description not required for Sole Source

FOR SMBR USE ONLY

Date Received	10/3/2018	Date Assigned to BDC	10/4/2018
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In accordance with Chapter 2-9(A-D)-19 of the Austin City Code, SMBR makes the following determination:

<input type="checkbox"/> Goals	% MBE	% WBE
<input type="checkbox"/> Subgoals	% African American	% Hispanic
	% Asian/Native American	% WBE
<input type="checkbox"/> Exempt from MBE/WBE Procurement Program		<input checked="" type="checkbox"/> No Goals

GOAL DETERMINATION REQUEST FORM

This determination is based upon the following:

<input type="checkbox"/> Insufficient availability of M/WBEs	<input type="checkbox"/> No availability of M/WBEs
<input type="checkbox"/> Insufficient subcontracting opportunities	<input checked="" type="checkbox"/> No subcontracting opportunities
<input type="checkbox"/> Sufficient availability of M/WBEs	<input type="checkbox"/> Sufficient subcontracting opportunities
<input type="checkbox"/> Sole Source	<input type="checkbox"/> Other

If Other was selected, provide reasoning:

MBE/WBE/DBE Availability

Subcontracting Opportunities Identified

None

John Wesley Smith	<i>John Wesley Smith</i>	10.4.2018
SMBR Staff	Signature/ Date	
SMBR Director or Designee	<i>[Signature]</i>	Date <i>10.9.18</i>
Returned to/ Date:		